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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,958	11/19/2001	Naoki Oguchi	FUJZ 19,185	9665
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KATTEN MUCHIN ROSENMAN LLP			EXAMINER	
575 MADISON AVENUE			LEE, ANDREW CHUNG CHEUNG	
NEW YORK, NY 10022-2585			ART UNIT	PAPER NUMBER
			2619	
			MAIL DATE	DELIVERY MODE
			06/27/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

09/988,958

**Applicant(s)**

OGUCHI ET AL.

**Examiner**

Andrew C. Lee

**Art Unit**

2619

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 27 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 5-13.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

/Edan Orgad/  
Supervisory Patent Examiner, Art Unit 2619

Continuation of 11, does NOT place the application in condition for allowance because: Applicant's arguments filed on 5/27/2008 with respect to claims 5 - 13 have been fully considered but they are not persuasive.

Regarding claims 5, 9, 11, Applicant argues reference Delaney et al. fail to disclose or suggest the claimed control packets. Examiner respectively disagrees. Examiner contends reference Delaney et al. teach the claimed subject matter control packets. Examiner interpreted "control packets" as Medium Access Control (MAC) addresses of elements of the customer LANs in Destination Address (DA) fields onto corresponding customer ports addresses in Decapsulation Egress Address (DEA) fields... and data frame has a header comprising a Destination Address (DA) identifying a LAN element for which the data frame is intended, see col. 7, lines 10 - 42. As cited in Applicant's specification, page 20, it states that the control packets each having set a multicast address predetermined per virtual network....". The control packets hence are merely defined source/destination addresses of the node for establishing the path or link.

Applicant also argues reference Delaney et al. do not include any disclosure or suggestion of the claimed reply packets. Examiner respectively disagrees. Examiner contends reference Delaney et al. teach and suggest the claimed reply packets. Examiner interpreted reply packet as "if the trunk has received a GMRP group registration generated by a GMRP application from another switch", see col. 12, lines 29 - 37.

Applicant further argues reference Delaney et al. do not include any disclosure or suggestion of virtual links (IP tunnel) being mutually independent for each multicast addresses group by the calimed "relay apparatus". Examiner respectively disagree. Examiner contends reference Delaney et al. suggest virtual links being mutually independent for each multicast address group. First, it is noted that Applicant claimed the subject matter virtual links (IP tunnel) in his/her remark; however, the claimed subject matter ("IP tunnel") never or ever defined and indicated in the Claims 5, 9, or 11 in the initial claims during the application was filed. The claimed subject matter (IP tunnel) only addressed in dependent claims. Examiner interpreted "virtual links being mutually independent for each multicast address group" as registering multicast groups at trunks such that frames carrying a particular multicast address in the DA field are forwarded only by trunks which have that multicast address registered for that trunk, see col. 11, lines 16 - 30.

Regarding claim 5, Applicant further argues reference Delaney et al. fail to disclose "first relaying apparatuses generating and multicasting control packets each of which contains a multicast address for constructing a virtual private network, and second relaying apparatuses establishing virtual links to the first relaying apparatuses which are transmitting sources of the control packets upon receipt thereof and for returning reply packets through the virtual links, whereby the virtual links are established between all pairs of virtual relaying structures included and independently operable per virtual private network in the first and the second relaying apparatuses to construct the virtual private networks that are preliminarily associated with the virtual relaying structures provided with receiving virtual interfaces and belonging to a multicast address group represented by the multicast address. Examiner respectively disagrees.

Examiner contends reference Delaney et al. suggest "first relaying apparatuses generating and multicasting control packets each of which contains a multicast address for constructing a virtual private network, and second relaying apparatuses establishing virtual links to the first relaying apparatuses which are transmitting sources of the control packets upon receipt thereof and for returning reply packets through the virtual links, whereby the virtual links are established between all pairs of virtual relaying structures included and independently operable per virtual private network in the first and the second relaying apparatuses to construct the virtual private networks that are preliminarily associated with the virtual relaying structures provided with receiving virtual interfaces and belonging to a multicast address group represented by the multicast address.

Examiner interpreted "first relaying apparatuses generating and multicasting control packets each of which contains a multicast address for constructing a virtual private network" as first switch (first relaying apparatus), each DA is mapped onto a single DEA, but each DEA may be mapped onto a plurality of DAs ass generating and multicasting control packets, see col. 6, lines 57 - 67, col. 7, lines 10 - 22, col. 8, lines 13 - 21, col. 11, lines 15 - 32, and "second relaying apparatuses establishing virtual links to the first relaying apparatuses which are transmitting sources of the control packets upon receipt thereof and for returning reply packets through the virtual links" was interpreted as the access switch receives the frame via a customer port 123 connected to the customer LAN 20 at the site and routes the frame via the associated virtual port and the customer access switch 124 ..", see Fig. 1, Fig. 2, col. 7, lines 35 - 63, col. 11, lines 15 - 32, "whereby the virtual links are established between all pairs of virtual relaying structures included and independently operable per virtual private network in the first and the second relaying apparatuses to construct the virtual private networks that are preliminarily associated with the virtual relaying structures provided with receiving virtual interfaces and belonging to a multicast address group represented by the multicast address" was interpreted as as registering multicast groups at trunks such that frames carrying a particular multicast address in the DA field are forwarded only by trunks which have that multicast address registered for that trunk, see col. 11, lines 16 - 30.

Regarding claims 5, 9, 11, using reference McCann, Applicant argues reference McCann fails to disclose or suggest the claimed subject matters "control packet, reply packet and virtual link". Examiner respectively disagrees. Examiner contends reference McCann teaches the claimed subject matters "control packet, reply packet and virtual link". Examiner interpreted "control packet" as attach named values to an overlay multicast group which is published into and across the overlay network, and the control channels are effected using a fully connected mesh of TCP connections, while the pairwise virtual data channels are effected using a single native multicast group; "reply packet and virtual link" as by announce their interest in all groups they wish to receive by multicast "report" packets on the same DGMP channel, see col. 9, lines 31 - 50, col. 30, lines 51 - 57, col. 6, lines 65 - 66.

Regarding claim 5, Applicant further argues reference McCann fails to disclose "first relaying apparatuses generating and multicasting control packets each of which contains a multicast address for constructing a virtual private network, and second relaying apparatuses establishing virtual links to the first relaying apparatuses which are transmitting sources of the control packets upon receipt thereof and for returning reply packets through the virtual links, whereby the virtual links are established between all pairs of virtual relaying structures included and independently operable per virtual private network in the first and the second relaying apparatuses to construct the virtual private networks that are preliminarily associated with the virtual relaying structures provided with receiving virtual interfaces and belonging to a multicast address group represented by the multicast address. Examiner respectively disagrees.

Examiner contends reference McCanne suggest "first relaying apparatuses generating and multicasting control packets each of which contains a multicast address for constructing a virtual private network, and second relaying apparatuses establishing virtual links to the first relaying apparatuses which are transmitting sources of the control packets upon receipt thereof and for returning reply packets through the virtual links, whereby the virtual links are established between all pairs of virtual relaying structures included and independently operable per virtual private network in the first and the second relaying apparatuses to construct the virtual private networks that are preliminarily associated with the virtual relaying structures provided with receiving virtual interfaces and belonging to a multicast address group represented by the multicast address.

Examiner interpreted "first relaying apparatuses generating and multicasting control packets each of which contains a multicast address for constructing a virtual private network" as MediaBridge M1 ( first relaying apparatus), changes the destination and source ...packet is then transmit throughout multicast domain, see Fig. 6., see col. 30, lines 30 - 48, and "second relaying apparatuses establishing virtual links to the first relaying apparatuses which are transmitting sources of the control packets upon receipt thereof and for returning reply packets through the virtual links" was interpreted MediaBridge M4 as second relaying apparatuses, Fig. 6, col. 30, lines 47 - 57, , col. 6, lines 65 - 67, col. 9, lines 35 - 50, Examiner also interpreted a transit virtual interface (TVIF) provides a virtual interconnection between virtually adjacent overlay router", and "the control channels are effected using a fully connected mesh of TCP connections, while the pairwise virtual data channels are effected using a single native multicast group" correlating to the virtual relaying structures being provided with receiving virtual interface and belonging to the multicast address group;"each transit virtual interface represents a link in the overlay network topology and overlay routers forward packets to each other over these virtual path", and "overlay routers may overlay addresses onto native group address using a well-defined hash function and the peers that are interested in receiving a certain overlay group" correlating to virtual links are established between all pairs of virtual relaying structures independently operable per virtual network in the first and the second relaying apparatuses to construct the virtual network; see col. 7, lines 20 - 24, col. 12, lines 17 - 27, lines 40 - 59).